

Group II: Claims 37-62 drawn to a method resulting in comparing an output signal produced by a simulated organ, classified in class 702, subclass 019 ...

Group III: Claims 63-98 and 125 drawn to a system and article of manufacture that causes a wireless terminal to perform steps resulting in deducing a condition of a user, classified in class 702, subclass 019 ... [and]

Group IV: Claims 99-124 and 126 drawn to a system and article of manufacture that causes a wireless terminal to perform steps resulting in comparing an output signal produced by a simulated organ, classified in class 702, subclass 019 ...”

Further, the Election/Restriction Requirement specifies that, in the event that Group I is elected, election of a species from each of species sets A and B is required. With respect to Group I, the Office Action indicates claim 1 to be generic to these two species sets.

The Applicant respectfully disagrees, for instance, with the claim characterizations and identification of species. Nevertheless, the Applicant, with traverse, provisionally elects Group I (claims 1-36). Further to the provisional election of Group I, the Applicant, with traverse, provisionally selects “heart” (reading on claim 19) with respect to species set A and provisionally selects “cardiopulmonary system” (reading on claim 36) with respect to species set B. Should any generic claim be deemed allowable, the Applicant respectfully requests that all species readable thereon be rejoined into the case. In view of at least claims 19-21, the Applicant believes that the Election/Restriction Requirement listing the label “abnormal states” represents a printing error, and that a different label was intended.

The Applicant believes that the Election/Restriction Requirement is improper and therefore makes the above elections with traverse. The Applicant respectfully observes that, as

stated in MPEP §803, for an Election/Restriction Requirement to be proper “there are two criteria for restriction between patentably distinct inventions” as follows:

- (1) The inventions must be independent or distinct as claimed; and
- (2) There would be a serious burden on the examiner if restriction is not required.

The Applicant respectfully submits that: all groups of restricted claims are properly presented in the same application; undue diverse searching would not be required; and all claims should be examined together. Accordingly, examination of the claims of Groups II-IV and the claims of Group I other than those corresponding to the above provisional selection with respect to Group I, in addition to the claims corresponding to the above provisional selection with respect to Group I, would place no additional “serious” burden on the Examiner as examination of the claims of Groups II-IV and the claims of Group I other than those corresponding to the above provisional selection with respect to Group I would not require undue diverse searching beyond that which would be necessary for examination of the claims corresponding to the above provisional selection with respect to Group I.

For at least the foregoing reasons, the Applicant respectfully submits that the Election/Restriction Requirement should be withdrawn and that all claims should be examined on the merits.